

FILED

MAR 11 2020

**Sheriff, U.S. District Court
District Of Montana
Billings**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

SHAWN ABEL, on behalf of himself)
and others similarly situated,)
Plaintiff,) Case No. 18-CV-166-BLG-SPW
v.)
AUSTYN SPENCER ENTERPRISES,)
LLC, BLUE SKY PIZZA, LLC and)
RHETT HIGHTOWER,)
Defendants.)

ORDER APPROVING SETTLEMENT

Having reviewed and considered Plaintiff's Consent Motion for Final Certification of the State Law Claims to Proceed as Class Actions for Settlement Purposes, Approval of a Class Action Settlement and Approval of a Collective Action Settlement (Doc. 41), and the Supplement (Doc. 43) thereto filed March 10, 2020, and having held a hearing on same, the Court hereby orders as follows:

1. The settlement reached by the parties, as set forth in the Joint Stipulation and Settlement Agreement ("Settlement") is fair, reasonable and adequate, suffers from no obvious defects, was reached after arm's-length negotiations between the parties, and constitutes a reasonable compromise of a bona fide dispute of the claims and defenses in this matter and, therefore, is approved;

2. Final certification of the settlement class and certification of that class pursuant to Fed. R. Civ. P. 23 is **GRANTED**;

3. Final certification of the Fair Labor Standards Act (“FLSA”) collective action is certified pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b);

4. For settlement purposes only, and pursuant to Fed. R. Civ. P. 23, the Court certifies the class:

“all persons employed as delivery drivers and who delivered at least one hundred (100) customer orders in Montana or Idaho between November 21, 2015 through August 6, 2019 who do not opt-out of this Litigation.”

5. For settlement purposes only, and pursuant to 29 U.S.C. § 216(b), the Court certifies the FLSA Class Members as “all current or former delivery drivers who delivered a minimum of 100 customer orders for Defendant in Montana or Idaho during the period commencing November 21, 2015 through August 6, 2019 who timely submitted a claim form.”

6. Shawn Abel is appointed as the Class Representative and he is awarded a \$3,500.00 service award for his initiative, services to the Class, and taking the risks of bringing this Action as a class action, which has resulted in substantial benefits to the Class;

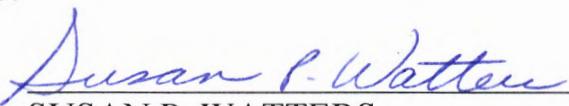
7. Plaintiff’s Counsel are awarded their reasonable attorneys’ fees and costs of \$83,333.33 incurred in pursuing the claims.

8. Defendants shall pay the settlement administrator's fees from the Maximum Settlement Amount (as that term is defined in the Settlement Agreement);

9. The Parties are to implement the terms of the Settlement; and

10. This Court hereby GRANTS Plaintiffs' Consent Motion for Final Certification of the State Law Claims to Proceed as Class Actions for Settlement Purposes, Approval of a Class Action Settlement and Approval of a Collective Action Settlement (Doc. 41), including the substance of the Supplement (Doc. 43) thereto filed March 10, 2020, and directs the Clerk to mark this matter **DISMISSED WITH PREJUDICE.**

DATED this 11th day of March, 2020.


SUSAN P. WATTERS
United States District Judge